

PRIORITY SEND
JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES -- GENERAL

Case No. EDCV 10-00165 VAP(DTBx)

Date: February 10, 2010

Title: L & G MORTGAGEBANC, INC., AN ARIZONA CORPORATION -v- EVA
LOPEZ, et al.

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PRESENT: HONORABLE VIRGINIA A. PHILLIPS, U.S. DISTRICT JUDGE

Marva Dillard
Courtroom Deputy

None Present
Court Reporter

ATTORNEYS PRESENT FOR
PLAINTIFFS:

ATTORNEYS PRESENT FOR
DEFENDANTS:

None

None

PROCEEDINGS: MINUTE ORDER REMANDING ACTION TO CALIFORNIA
SUPERIOR COURT, SAN BERNARDINO COUNTY (IN
CHAMBERS)

On September 17, 2009, Plaintiff L & G Mortgagebanc, Inc. ("Plaintiff") filed a "Complaint in Unlawful Detainer" against Defendants Eva Lopez, Gabriella Lopez, Gabby Lopez, Josephine Serra, Gabriella Serra, Gabby Serra, and other occupants of the property at issue ("Defendants"). On February 2, 2010, Defendants removed the action on the basis of federal question jurisdiction and diversity jurisdiction. (See Not. of Removal at 2.)

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MINUTE ORDER of February 10, 2010

Removal jurisdiction is governed by statute. See 28 U.S.C. §1441, et seq. The Ninth Circuit applies a strong presumption against removal jurisdiction, ensuring "the defendant always has the burden of establishing that removal is proper." Gaus v. Miles, Inc., 980 F.2d 564, 566 (9th Cir. 1992), citing Nishimoto v. Federman--Bachrach & Assocs., 903 F.2d 709, 712 n.3 (9th Cir. 1990); see also In re Ford Motor Co./Citibank (South Dakota), N.A., 264 F.3d 952, 957 (9th Cir. 2001) ("The party asserting federal jurisdiction bears the burden of proving the case is properly in federal court.").

Defendants claim one basis for removal is federal question jurisdiction, 28 U.S.C. § 1331, because the claims arise under federal law. (See Not. of Removal at 2:3–7.) From the face of the Complaint, Plaintiff's claim is for unlawful detainer, a California state law action. See Franchise Tax Bd. v. Constr. Laborers Trust, 463 U.S. 1, 10 (1983) (defendant may not remove case to federal court unless basis for federal jurisdiction apparent on the face of the complaint). Accordingly, Defendants fail to meet their burden of establishing the Court's jurisdiction under 28 U.S.C. § 1331.

Defendants also claim removal is proper because the Court has diversity jurisdiction. (See Not. of Removal at 2:8–21.) Upon further review of the Complaint and the Notice of Removal, however, the Court finds no basis for diversity jurisdiction in this case. Defendants do not explain how the amount in controversy here could reach \$75,000. See 28 U.S.C. § 1332.

Defendants have not met their burden of establishing that the case is properly in federal court. Gaus, 980 F.2d at 566. Accordingly, the Court REMANDS the action to the Superior Court of California, San Bernardino County.

IT IS SO ORDERED.